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**\*E-FILED - 10/26/09\***

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
v. )  
GREGORY JOHN FRANCO, )  
 )  
Defendant. )

No. CR 08-00871 RMW

STIPULATION AND []  
ORDER RESCHEDULING SENTENCING  
HEARING FROM OCTOBER 19, 2007  
TO NOVEMBER 2, 2009

The defendant's sentencing hearing is currently scheduled for October 19, 2009, at 9:00 a.m. As the Court is aware from prior stipulations, there is a discrepancy in the agreed upon sentence based upon an examination of the proposed guidelines. Efforts are still ongoing to resolve this issue. The parties recognize that this is not the first time the defendant's sentencing hearing has been continued, and are mindful of continued delay. However, the parties believe that this additional time would be helpful, and therefore request that the defendant's sentencing hearing be rescheduled to November 2, 2009 at 9:00 a.m. or on another date that is convenient for the Court.

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1 The parties do not anticipate filing any additional requests for continuance. The Assistant  
2 United States Attorney confirmed the Court's and Probation Officer's availability on November  
3 2, 2009.

4 DATED: October 16, 2009

JOSEPH P. RUSSONIELLO  
United States Attorney

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7 /S/  
GRANT P. FONDO  
Assistant United States Attorney

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9 /S/  
SAM J. POLVERINO  
Counsel for Defendant Gregory J. Franco

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**ORDER**

Based upon the stipulation of the parties, and for good cause shown, the Court HEREBY ORDERS that the defendant's October 19, 2009 sentencing hearing be rescheduled for November 2, 2009.

IT IS SO ORDERED.

DATED: 10/26/09

  
RONALD M. WHYTE  
UNITED STATES DISTRICT JUDGE